

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of	)	
	)	
Accelerating Wireless Broadband Deployment by	)	
Removing Barriers to Infrastructure Investment	)	WT Docket. No. 17-79
	)	
Draft Program Comment for the Federal	)	
Commission's Review of Collocations on	)	
Certain Towers Constructed Without	)	
Documentation of Section 106 Review	)	

**REPLY COMMENTS OF AT&T**

AT&T Services, Inc. ("AT&T"), on behalf of its wireless affiliates, provides these reply comments to the Public Notice<sup>1</sup> released by the Federal Communications Commission ("Commission") proposing a Program Comment for towers constructed between March 16, 2001 and March 7, 2005 that are missing documentation confirming review under Section 106 of the National Historic Preservation Act ("NHPA").

The record in this docket demonstrates that the Program Comment, as drafted, advances the public interest through an appropriate balance of promoting broadband deployment and protecting historic and tribal properties. Industry commenters have explained the substantial public interest benefits from adoption of the Program Comments, as drafted. Mobile Future explains how accelerating wireless infrastructure deployment is critical to continued U.S. leadership in mobile broadband.<sup>2</sup> Carriers continue to densify their networks to create more capacity and roll out broadband over

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<sup>1</sup>Draft Program Comment for the Federal Commission's Review of Collocations on Certain Towers Constructed Without Documentation of Section 106 Review, WT Docket. No. 17-79, *Public Notice*, 32 FCC Rcd 10715 (2017) ("*Public Notice*").

<sup>2</sup> Comments of Mobile Future, WT Docket No. 17-79 at 2-4 (filed Feb. 9, 2018) ("Mobile Future Comments").

LTE. Making Twilight Towers available for current 4G capacity expansions and for eventual backhaul of 5G services will facilitate these massive investments in network infrastructure that are needed to put the United States in the forefront of broadband deployment. “By finally making [Twilight Towers] available for collocation and promoting the more effective use of existing infrastructure, consumers will benefit from increased network coverage and access to new and enhanced wireless services.”<sup>3</sup>

T-Mobile also correctly observes that if the Program Comment is adopted as drafted, more towers will be available to support broadband services for first responders and other public safety agencies.<sup>4</sup> Now that all 53 states and territories have opted-in to the FirstNet program, AT&T is beginning to make broadband services available to public safety organizations nationwide. While those services are available immediately using AT&T’s current broadband network, AT&T will also deploy antennas and equipment over tens of thousands of new and existing towers to support a dedicated first responder network using the Public Safety Broadband Radio Service (i.e., Band 14).<sup>5</sup> Adoption of the Program Comment would allow AT&T to place Band 14 equipment on Twilight Towers with minimal delays using the same streamlined NHPA processes that are available for towers constructed before 2001. Moreover, by making more existing towers available for collocation using streamlined NHPA processes, the Program Comment would reduce the need for new towers, minimizing the overall impact on historic properties.<sup>6</sup>

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<sup>3</sup> Comments of T-Mobile USA, Inc., WT Docket No. 17-79 at 3 (filed Feb. 9, 2018).

<sup>4</sup> *Id.*

<sup>5</sup> AT&T, *First Responders Deserve the Best. Now They Can Have It* (Dec. 29, 2017), available at [http://about.att.com/newsroom/first\\_responders\\_deserve\\_the\\_best.html](http://about.att.com/newsroom/first_responders_deserve_the_best.html).

<sup>6</sup> Comments of CTIA and The Wireless Infrastructure Ass’n, WT Docket No. 17-79 at 7 (filed Feb. 9, 2018); Mobile Future Comments at 5

Tribal Nations continue to claim that adverse effects on historic properties and tribal sites cannot be determined without individualized identification and analysis of every Twilight Tower, including the provision of topographic data, photographs, priority evaluations for collocations, and benefit assessments.<sup>7</sup> But, the Program Comment process “contemplates a balancing of the likelihood of *significant* harm against the burden of reviewing individual undertakings.”<sup>8</sup> Any significant harm would have become manifest within the 13 to 17 years that Twilight Towers have been in place.<sup>9</sup> Those adverse effect have not been identified because they do not exist or are few.<sup>10</sup> Requiring individualized tower-by-tower review and the provision of detailed tower specific information and analysis before permitting collocation on Twilight Towers would be inefficient and costly, impose additional burdens and delays without a corresponding benefit, and in some cases possibly deny, the benefits of next-generation wireless services.<sup>11</sup>

Tribal Nations also continue to argue against the Program Comment on the basis that Twilight Towers are noncompliant, requiring review.<sup>12</sup> It has even been suggested in prior

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<sup>7</sup> Comments of Choctaw Nation of Oklahoma, WT Docket No. 17-79 at 1-2 (filed Feb. 8, 2018); Comments of the Forest County Potawatomi Community, WT Docket No. 17-79 at 1 (filed Jan. 8, 2018) (“Forest County Potawatomi Community Comments”); Comments of the Muscogee (Creek) Nation, WT Docket No. 17-79 (filed Feb. 9, 2018).

<sup>8</sup> Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process, WT Docket No. 03-128, Report and Order, 20 FCC Rcd 1073, 1087 (2004) (emphasis added).

<sup>9</sup> National Trust for Historic Preservation, WT Docket No. 17-79 at 3 (filed Feb. 9, 2018) (“[W]e believe the adverse effects will be *more* demonstrable in these cases, in contrast to the typical Section 106 review, which requires artificial simulations, projections, estimates, and speculations regarding a not-yet-built tower.”)

<sup>10</sup> Id. (“We agree that the *majority* of these Twilight Towers are likely to have no adverse effects.”)

<sup>11</sup> Mobile Future Comments at 6.

<sup>12</sup> Forest County Potawatomi Community Comments at 1; Comments of the Omaha Tribe of

comments in this docket that tower owners compensate tribes for this alleged noncompliance.<sup>13</sup> These arguments are unavailing. First, they ignore the fact that the draft Program Comment would eliminate reviews only for *collocations* on Twilight Towers, and do not consider the underlying tower itself.<sup>14</sup> Section 110(k) would continue to apply “to the extent that the owner of any Twilight Tower is shown to have intentionally adversely affected a historic property with intent to avoid the requirements of Section 106.”<sup>15</sup>

Second, Twilight Towers are not generally “noncompliant.” They may have undergone a less rigorous Tribal consultation process than what became required after adoption of the Section 106 Nationwide Programmatic Agreement (“Sec. 106 NPA”) in 2005 or lack substantial documentation to determine the process that was followed. But, that does not make them noncompliant and certainly does not warrant rigorous, after-the-fact processes that were not clearly mandated before March 2005. Third, there is often no one to penalize because many Twilight Towers are no longer held by the original owner. Thus, identification of all Twilight Towers, retroactive application of the Sec. 106 NPA to them, and compensation or penalties would be counterproductive and continue to indefinitely tie up network infrastructure assets. AT&T encourages the Commission to work with the Advisory Council on Historic Preservation to expeditiously adopt the Program Comment as drafted.

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Nebraska, WT Docket No. 17-79 at 1-2 (filed Jan. 26, 2018).

<sup>13</sup> Comments of Cheyenne River Sioux Tribe, WT Docket No. 17-79 at 3 (filed June 9, 2017).

<sup>14</sup> Comments of Verizon, WT Docket No. 17-79 at 4 (filed Feb. 9, 2018).

<sup>15</sup> *Public Notice*, 32 FCC Rcd at 10718, note 16.

Dated: February 26, 2018

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Robert Vitanza", with a long horizontal flourish extending to the right.

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